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CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Notification

The 24th July, 2023

No. C-36693-FII(8)-2023/10490.—Whereas, Chandigarh Administration *vide* Notification No. 6/1/195-FII(8)-2019/9887-9891, dated 21.06.2019, had imposed sewerage cess at the rate 30% of water consumption amount on 'Residential Buildings' as well as 'Hotels/ Commercial Premises, Institutions and other categories' by way of amendments in the Chandigarh Water Supply Bye-Laws 2011 (as amended from time to time).

And whereas, the General House of Municipal Corporation in its 322nd Meeting dated 06.03.2023 has decided and recommended for reduction in the Sewerage Cess.

Now, therefore in exercise of powers conferred under Punjab Municipal Corporation Act (as extended to the Union Territory, Chandigarh) 1994, the Administrator, Union Territory, Chandigarh in partial modification of the Notification dated 21.06.2019 is pleased to reduce the rate of sewerage cess from existing 30% to 25% for the remaining period of the financial year 2023-24, and to further reduce the rate of sewerage cess to 20% with effect from 1st April, 2024 onwards.

This Notification shall come into force from the date of publication in the official Gazette.

NITIN KUMAR YADAV, IAS,
Secretary Local Government,
Chandigarh Administration.

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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 10th July, 2023

No. 13/1/9982-HII(2)-2023/9651.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 123/2021 dated 31.05.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

RAM PARKASH S/O MANGAT RAM, AGED 62 YEARS, EX-CONDUCTOR NO. 435,
CHANDIGARH TRANSPORT UNDERTAKING R/O H.NO.2304, SECTOR 24-C, U.T.
CHANDIGARH (Workman)

AND

- (1) THE SECRETARY TRANSPORT, UNION TERRITORY, CHANDIGARH
- (2) THE DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING-
CUM-DIRECTOR TRANSPORT, U.T., CHANDIGARH (Management)

AWARD

1. Ram Parkash, workman has presented industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was selected and appointed as Conductor and joined his duties as such on 17.12.1982. The workman was charged with allegations by the Adda / Duty Clerk and Duty Inspector that the workman remained willfully absent from duty on 31.12.2003, when his duty was detailed / fixed on Chandigarh - Haridwar - Rishikesh route. It was further alleged in the complaint that the workman therefore remained absent from his duty without any reason and without any permission of Head Office. No charge sheet was served upon the workman and without reply of the workman, inquiry was conducted at the back of the workman. On the basis of *ex parte* inquiry, Divisional Manager, Chandigarh Transport Undertaking-cum-Director Transport, Chandigarh dismissed workman from service with immediate effect on 12.07.2005 though the order dated 12.07.2005 was communicated to the workman on 14.07.2005. The order passed by the Divisional Manager, Chandigarh Transport Undertaking-cum-Director Transport, Chandigarh is illegal, wrong and contrary to the true facts as workman was not given proper opportunity of defending his case and he was condemned unheard. On 28.12.2003 the workman was deputed for duty from Chandigarh to Una route and he had to come back from there on 29.12.2003. On 29.12.2003 after performing his duty, he reported for further duty to the Duty Inspector at Chandigarh. Since the workman was not fully well due to his illness, therefore he got himself medically checked in General Hospital at Sector 16, Chandigarh. In this regard, copy of medical certificate dated 29.12.2003 was sent to the office. After check-up, he was advised by the Doctor for complete bed rest for two days. Since workman was not fully well, even after 31.12.2003 and he was not in a position to join and report for duty to the concerned authority, therefore, he could not intimate Duty Section in this regard. In the month of September 2003, wife of the workman was operated upon for ailment in Indira Gandhi Medical College & Hospital, Shimla and was discharged on 01.10.2003 from there. There was nobody to look after his minor children because his wife was residing in the house of her parents at Shimla. In the month of January 2004 the workman himself fell ill and

there was no one to look after him at Chandigarh. Therefore, the workman thought it appropriate to join the company of his family residing at Shimla. Even workman was taken to Shimla by one of his relative Shri Mangat Ram. At Shimla, the workman was got medically checked and it was found that he was suffering from Thyroid and was advised continuous bed rest. The workman was left with no option but to stay for few months in Shimla at his in-laws house due to his illness. The workman was not in a position to intimate the above said facts to his employer. Even when the workman was fully recovered, he came back to Chandigarh and he continued to remain under medical treatment from a private Doctor at Chandigarh. Thereafter, when the workman was fully fit, he joined his duties without further delay and reported for duty to the Duty Section at Chandigarh on 01.07.2004. At the time of joining workman also filed an affidavit showing that due to unavoidable circumstances, he could not report for duty from 29.12.2003 to 30.06.2004. While passing order dated 12/13.07.2005, the workman submitted to the Divisional Manager, Chandigarh Transport Undertaking-cum-Director Transport, Chandigarh that the workman was not given adequate opportunity of hearing but he did not consider the same. Personal record shows that the workman was never served any memorandum dated 23.01.2004 as has been referred in the order. The workman was neither served nor his signatures appeared on any registered letter. Hon'ble Apex Court has repeatedly held that actual service of notice and charge-sheet is necessary and there is no presumption of zimni orders. Even while appearing before the Divisional Manager, CTU this fact was also narrated by the workman but the same was not heard nor any opportunity to explain his position was afforded to the workman. Neither workman was ever served by Inquiry Officer Shri N. C. Puri nor he was called to join inquiry. Even the inquiry report which has been submitted to the Divisional Manager, Chandigarh Transport Undertaking-cum-Director Transport, Chandigarh was neither prepared in his presence nor the same was served to the workman. Until and unless inquiry report which has been prepared against the workman is not given to him, he was not in a position to defend himself properly. The demand of natural justice requires that every person should be afforded adequate opportunity so that no injustice is done to him. The personal record of workman would show that neither the workman was properly served with inquiry report nor he was given a chance to make representation against the same which was mandatory under the law. As far as non-appearance of workman on 15.04.2005, 04.05.2005, 19.05.2005 and 08.06.2005 before the DM, CTU-cum-Director Transport, Chandigarh is concerned, the workman was never served for these duties nor he was served with any registered letters as alleged in the order. The workman during the aforesaid dates had no knowledge about the hearing of the case. Non-appearance on part of the workman during this period was neither intentional nor deliberate but was due to the reason as mentioned above. The management has alleged that while passing order dated 14.07.2005 the workman was served through daily Punjabi Tribune on 23.06.2005. As submitted above the workman was bed-ridden and remained at his in-laws place in Shimla during this period and was not availing any facility of newspaper. The publication in the said newspaper as alleged was not within the knowledge of the workman, though workman put in appearance before the Divisional Manager, CTU-cum-Director Transport, Chandigarh on 07.07.2005 when he came to know about the proceedings against him. The workman appeared on 07.07.2005 but on that day Divisional Manager, CTU-cum-Director Transport, Chandigarh did not hold office as he was on tour. The workman was given next date of hearing i.e. 12.07.2005 on which date the workman put his personal appearance before Divisional Manager, CTU-cum-Director Transport, Chandigarh and explained his position. It was also pleaded by the workman that the inquiry report has been prepared by Shri N. C. Puri and copies of other articles of charges may be provided to him so that reply thereto may be filed but to the utter surprise of the workman, he was straightaway told that his services have been dismissed with immediate effect and he will not be given any opportunity of bearing heard. Personal case file was also shown to him only on 12.07.2005 and without affording proper opportunity to cross-examine by Inquiry Officer, allegations were proved ex-parte. Order dated 14.07.2005 was announced on 14.07.2005 and the written order was complicating to the workman. Though order itself shows that the same was written on 12.07.2005 on which the workman put his first appearance before him and it was signed on 13.07.2005 by the Superintendent, HOD and it was received by workman on 14.07.2005. The workman repeatedly requested that he should be given sufficient time to explain his position but Divisional Manager, CTU-cum-Director Transport, Chandigarh was so adamant that without hearing workman ordered his dismissal. The order of punishment is illegal and in violation of settled law. Absence of workman

was not willful and intentional but due to his illness. There is no finding of the Inquiry Officer that absence was willful and intentional. The punishment of dismissal was too harsh in nature and disproportionate to the alleged misconduct. At the time of passing of dismissal, the workman had already earned the right to pension under the Punjab Civil Services Rules because he had completed more than 20 years of pensionable service. It is settled law that while passing of dismissal order, length of service and right to pension have to be taken into consideration. The order of dismissal is illegal because neither the charge sheet was served to the workman nor proper opportunity was given to him by the Inquiry Officer. The workman was never served the copy of inquiry report thereby his right to make representation against the same has been denied, which was statutory right of the workman. Against the order of punishment dated 14.07.2005, the workman filed appeal to the appellate authority which was received in the office of appellate authority on 09.09.2005 under the signature of concerned official but same has not been decided till date. The workman also send a reminder to the appellate authority which was duly received in the office of the appellate authority on 30.09.2013. To file the appeal against the order of punishment was statutory right of the workman and it was statutory obligation of the appellate authority to decide the same as per rules but the appellate authority failed to decide the same. The workman is unemployed after his illegal termination. Prayer is made that order of illegal termination dated 12.07.2021 may be set aside and the workman may be ordered to be reinstated with continuity of service and full back wages.

3. On notice management No.1 & 2 contested the claim statement by filing written reply / statement jointly on 06.07.2022, wherein preliminary submissions are made on the ground that the workman joined the services as a Conductor in Chandigarh Transport Undertaking (CTU), U.T. Chandigarh vide his joining report allowed on 17.12.1982. The workman has approached this Hon'ble Court after lapse of more than 16 years. Hence, his claim statement deserves to be dismissed in view of the law laid down by the Hon'ble Apex Court in Nedungadi Bank Limited Versus K. P. Madhavan Kutty reported in 2000(3) Vol. 75 All India Services Law Journal 22(SC). Similar view is taken in Prithvi Singh Versus Executive Engineer, HPSEB Limited, Division Rajgarh, District Simaur, H.P. and Others in CWP No.4847 of 2015 decided on 26.08.2019 by the Hon'ble High Court of Himachal Pradesh. It is further stated that the workman was charge-sheeted for remaining wilfully absent from his duty w.e.f. 31.12.2003 onwards and he failed to submit his reply to the charge sheet which was issued to him vide Memo No.1122/DT/ECC/CTU2004 dated 04.06.2004. Moreover, workman failed to participate in the inquiry proceedings before the appointed Inquiry Officer, CTU, Chandigarh. Resultantly, the Inquiry Officer proceeded ex-parte with the proceedings of the inquiry on the ground of the charges levelled against the workman, in view of the fact that he failed to defend his case intentionally. Moreover, the workman failed to submit any representation / reply against the inquiry report, which was supplied to him vide office Memo No.1304/DT/TA-1/CTU/2005 dated 08.02.2005. The workman again failed to appear before the competent authority for personal hearing in spite of valid services. So the workman was called for personal hearing through public notice published in 'Punjabi Tribune' and 'The Tribune' dated 23.06.2005. After hearing the workman as well as going through the record, such as inquiry report etc., the competent authority ordered to dismiss the services of the workman vide office order bearing Endorsement No.903/ECC/CTU-I/2005 dated 14.07.2005 so the order dated 14.07.2005 is fully maintainable under the Rules.

4. Further in parawise reply, it is stated that the workman was appointed as Conductor and joined his duties as such on 17.12.1982. The workman was charge sheeted vide Memo No.1122/DT/ECC/CTU2004 dated 04.06.2004 for the following charges :—

"On 19.01.2004 S/Sh. Malkiat Singh Rana, Duty Clerk (S.I.) and Jagir Singh, Duty Inspector reported that on 31.12.2003, Shri Ram Parkash, C-435 was fixed for duty from Chandigarh to Haridwar - Rishikesh but he neither reported for duty nor sent any information to this office. Thereafter, he was informed through regd. post vide Memo dated 23.04.2004 at his home address that he is being treated absent from govt. duty w.e.f. 31.12.2003 onwards and further he was directed to resume his duties immediately or in case of sickness appear before the P.M.O. / C.M.O. concerned for medical examination under intimation to this

office but he did not comply with the directions of this office. Thus, Shri Ram Parkash, C-No.435 remained wilfully absent from govt. duty w.e.f. 31.12.2003 onwards which is a dereliction towards duty and amounts to grave misconduct on his part."

The workman failed to submit his reply to the charge sheet, which was served to him. So the competent authority ordered to hold a regular departmental inquiry by appointing the then General Manager, CTU as Inquiry Officer. The inquiry conducted by the Inquiry Officer by following proper procedure laid down in punishment and appeal rules. The Inquiry Officer submitted the inquiry report in which he held that the charges levelled against the workman stands proved ex-parte. But the workman intentionally failed to come for his defence despite the fact that he had full knowledge of date, time and place of inquiry. So the Inquiry Officer proved the charges levelled against the workman as ex-parte. The competent authority fully agreed with the findings submitted by the Inquiry Officer and copy of the same was supplied to the official vide Memo No. 1304/DT/TA-1/CTU/2005 dated 08.02.2005 to make representation against the inquiry report, if any within 15 days from the receipt of this memo, but he did not submit any reply in this regard. Thereafter, the workman failed to attend the personal hearing on 15.04.2005, 05.04.2005, 19.05.2005 and 08.06.2005. So he was called for personal hearing through public notice published in the 'Punjabi Tribune' and 'The Tribune' dated 23.06.2005 to appear before the undersigned on 07.07.2005 at 11:00 A.M. at 701, Industrial Area, Phase - I, Chandigarh. It was made clear in the public notice that if the official did not appear for personal hearing, an ex-parte decision would be taken against him without giving any further notice. He was present on 07.07.2005. The workman was heard in person by the competent authority. The workman was given an opportunity in defence to say something by way of his explanation. He was listened carefully but he did not say anything more than he said earlier. So the competent authority after going through the findings of the Inquiry Officer, facts and circumstances of the case ordered to dismiss the services of the workman with immediate effect. It is a matter of record that on 28.12.2003 the workman was deputed for duty from Chandigarh to Una route and he had to come back from there on 29.12.2003. On 29.12.2003, after performing his duty, he reported for further duty to the Duty Inspector at Chandigarh. Since the workman was not fully well due to his illness, therefore he got himself medically checked in General Hospital at Sector 16, Chandigarh and was advised bed rest for two days. It is also a matter of record that when the workman was fully fit he joined his duty without any delay and reported for duty to the Duty Section at Chandigarh on 01.07.2004 and that the workman filed an affidavit showing that due to unavoidable circumstances he could not report for duty from 29.12.2003 to 30.06.2004. It is denied for want of knowledge that the workman is unemployed after his termination. Rest of the averments of claim statement are denied as wrong and prayer is made that the present IDR may be dismissed.

5. Rejoinder not filed. From the pleadings of the parties, following issues were framed vide order dated 17.08.2022 :—

1. Whether the order of dismissal of workman is illegal, as alleged ? OPW
2. If issue No.1 is proved in affirmative, whether the workman is entitled for reinstatement with continuity of service and full back wages and all monetary benefits of pay and pensionary benefits along with interest, as prayed for ? OPW
3. Whether the statement of claim is time barred ? OPM
4. Relief.

6. In evidence, the workman Ram Parkash examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W7'.

Exhibit 'W1' is copy of order dated 12.07.2005 passed by Divisional Manager, C.T.U, Chandigarh.

Exhibit 'W2' is original medical certificate dated 29.12.2003 of workman.

Exhibit 'W3' is copy of joining report dated 01.07.2004 of workman.

Exhibit 'W4' is copy of affidavit in support of joining report dated 01.07.2004.

Exhibit 'W5' is copy of punishment order dated 12.07.2005 bearing Endorsement dated 14.07.2005 passed by Divisional Manager, C.T.U, Chandigarh with regard to willful absent from the duties.

Exhibit 'W6' is appeal dated 05.09.2005 against the punishment order dated 12.07.2005 bearing Endorsement dated 14.07.2005 before the Appellate Authority.

Exhibit 'W7' is reminder dated 28.09.2013 to the appeal dated 05.09.2005.

On 10.03.2023 the workman along with his Representative Shri Naresh Chander closed his evidence in affirmative.

7. On the other hand, management examined MW1 Rajwinder Kaur - Senior Assistant, CTU, O/o Divisional Manager, CTU, Chandigarh, who tendered her affidavit Exhibit 'MW1/A' along with copy of newspaper publication 'The Tribune' dated 23.06.2005 vide Exhibit 'M1/1' and certificate dated Nil issued by Superintendent - I, CTU, Chandigarh that inquiry file of the workman is not traceable vide Exhibit 'MW1/2'. On 30.05.2023 Learned Law Officer closed evidence on behalf of the management.

8. I have heard arguments of Learned Representative for the workman and Learned Law Officer for the managements and perused the judicial file. My issue-wise findings are as below :—

Issue No. 1 & 2 :

9. Both these issues are taken up together being interconnected and in order to avoid repetition of discussion.

10. Onus to prove both these issues is on the workman.

11. Under these issues Learned Representative for the workman referred testimony of AW1 Ram Parkash, who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity and supported his oral version with documents Exhibit 'W1' to 'W7'

12. On the other hand, Learned Law Officer for the management referred testimony of MW1 Rajwinder Kaur - Senior Assistant, CTU, Chandigarh who vide her affidavit Exhibit 'MW1/A' deposed the entire contents of written statement and supported her oral version with documents Exhibit 'MW1/1' and Exhibit 'MW1/2'.

13. From the oral as well documentary evidence led by the parties, it comes out that there is no dispute between the parties with the facts that the workman joined his services with CTU, Chandigarh as Conductor on 17.12.1982 and was dismissed from service vide order dated 12.07.2005 on the allegation of absence from duty. The workman has alleged that neither any charge sheet was served upon him nor any reply was obtained from him. The inquiry was conducted at his back and on the basis of ex-parte inquiry, the Divisional Manager, CTU-cum-Director Transport dismissed him from service with immediate effect on 12.07.2005 vide order dated 12.07.2005 / Exhibit 'W1'. The order of dismissal Exhibit 'W1' was communicated to him on 14.07.2005. On the other hand, Learned Law Officer for the management argued that the workman was charge-sheeted for remaining wilfully absent from his duty w.e.f. 31.12.2003 onwards. Charge sheet vide Memo No.1122/DT/ECC/CTU2004 dated 04.06.2004 was issued to the workman to which he did not file any reply. Despite proper service the workman knowingly did not participate in the inquiry

proceedings as a result of which the ex-parte inquiry proceedings were conducted and the Inquiry Officer submitted the inquiry report supplied to the workman vide Memo No.1304/DT/TA-I/CTU/2005 dated 08.02.2005. Thereafter the workman failed to appear for personal hearing despite proper service before the competent authority. Ultimately, the presence of the workman was procured on 07.07.2005 by issuing notice through publication in the newspaper Exhibit 'M1/1'. To my opinion, the plea taken by the workman that he was not afforded opportunity to the join inquiry proceedings is devoid of merits because when put to cross-examination workman / AW1 stated that it is correct that he had furnished his same address to the department, where he is residing. He does not remember whether he has received any summons from the Inquiry Officer. From the aforesaid version of AW1 it is made out that he has not specifically denied the receipt of summons from the Inquiry Officer and under the law the fact which is not specifically denied is deemed to be admitted. The workman has failed to controvert the fact that he was supplied with copy of inquiry report and thereafter before passing the punishment order he was provided with an opportunity of personal hearing by issuing public notice in newspaper 'The Tribune' English edition dated 23.06.2005 / Exhibit 'MW1/1'. AW1 in his cross-examination denied the suggestion as wrong that he was given personal hearing after the conclusion of the inquiry before passing the order by the punishing authority. AW1 denied the suggestion as wrong that he was given four opportunities of personal hearing by the department which he did not avail. AW1 denied the suggestion as wrong that he did not avail the repeated opportunity of personal hearing, then the department issued publication in the newspaper to appear before the competent authority on 07.07.2005. AW1 denied the suggestion as wrong that on 07.07.2005 he appeared before the competent authority. AW1 further denied the suggestion as wrong that he was given full & fair opportunity to defend himself in the inquiry proceedings. The aforesaid version of AW1 lead to the inference that AW1 has taken the plea that he was not provided with any opportunity of personal hearing by the punishing authority. To my opinion, the aforesaid plea taken by the workman/ AW1 stands falsified from the contents of the appeal dated 05.09.2005 / Exhibit 'W6' filed by him before the Home Secretary, Chandigarh Administration, Chandigarh against the punishment order dated 12.07.2005 passed by DM, CTU and Director Transport, U.T. Chandigarh. In para 12, at page 5, of Exhibit 'W6' workman has pleaded that the publication in the said newspaper, as alleged, was not within the knowledge of the appellant, though appellant put his appearance before the Learned Division Manager, CTU on 07.07.2005 when he came to know about the proceedings against him on 30.06.2004. The matter was listed on 07.07.2005 but on that day Learned DM, CTU could not hold inquiry as he was on tour. Appellant was given next date for 12.07.2005, on which date the appellant put his personal appearance before Learned DM, CTU and explained his position. From the aforesaid facts pleaded by the workman in his appeal, it is duly proved on record that the workman was well in knowledge of the inquiry proceedings and he appeared before DM, CTU for personal hearing, before the passing of punishment order. The fact that the workman appeared for personal hearing on 12.07.2005 and the punishment order was passed on the same date i.e. on 12.07.2005, does not disprove the fact that the workman was given personal hearing before passing the punishment order.

14. In view of the reasons recorded above, it is duly proved on record that the Inquiry Officer has conducted the inquiry proceedings well in accordance with law and the punishment order Exhibit 'W1' was passed after providing full opportunity to the workman to defend the inquiry proceedings and after providing opportunity of personal hearing to the workman. Consequently, the punishment order dated 12.07.2005 / Exhibit 'W1' / 'W5' is legal and valid.

15. The workman has alleged that he has filed an appeal Exhibit 'W6' against the punishment order dated 12.07.2005 / Exhibit 'W1' / 'W5' on 05.09.2005 and issued reminder dated 28.09.2013 / Exhibit 'W7' but the said appeal has not been decided till date. On the other hand, the management has denied the filing of appeal and the reminder. In this regard MW1 in her cross-examination stated that appeal Exhibit 'W6' and reminder Exhibit 'W7' were not received in their office. She has visited Secretariat to ascertain the filing of appeal Exhibit 'W6' and reminder Exhibit 'W7' but she was orally informed that they have no record of the aforesaid document. To my opinion the plea taken by the workman that he has filed appeal dated 05.09.2005 Exhibit 'W6' and issued reminder dated 28.09.2013 / Exhibit 'W7' does not stand proved because the workman

has failed to bring any evidence to prove the receipt of aforesaid documents by the Receipt Clerk or any official of the Appellate Authority / Home Secretary, Chandigarh Administration, Chandigarh. Though on reminder Exhibit 'W7' it is mentioned Regd. A.D. / By hand but the workman has failed to prove into evidence any postal receipt showing the despatch of the said reminder through registered post and has also not placed on record the acknowledgement of the same. The question of deciding the appeal would arise only if the appeal is proved to have been filed but in the present case the workman has failed to prove that he has failed an appeal against the punishment order. The above said facts & circumstances would prove that before approaching this Court the workman has not exhausted the remedy under Rule 19 of the Punjab Civil Services (Punishment & Appeal) Rules.

16. Learned Representative for the workman laid much stress on fact that the workman has completed more than 20 years of service. The workman was allegedly absent w.e.f. 31.12.2003. The workman joined service on 17.12.1982 and dismissed from service w.e.f. 12.07.2005. On the date of passing of dismissal order, the workman has already acquired right to pension on completion of more than 20 years of service as per Rule 6.16A(3) of Punjab Civil Services Rules (Volume - II) and as per the provisions of Punjab Civil Services (Pre-mature Retirement) Rules, 1975 as amended from time to time. The punishment of dismissal from service imposed upon the workman is too harsh and disproportionate to the alleged misconduct i.e. absence of 6 months which was also not wilful and intentional. It is thus argued by Learned Representative for the workman that the punishment of the workman may be reduced from dismissal to compulsory retirement w.e.f. 12.07.2005. The compulsory retirement is also major penalty under Rule 5 of the Punjab Civil Services (Punishment & Appeal) Rules. On the other hand, Learned Law Officer argued that the Court is not competent to examine the adequacy of penalty awarded to the workman.

17. To my opinion, as discussed above, the Inquiry Officer provided reasonable opportunity to the workman to set up proper defence and punishing authority afforded opportunity of personal hearing to the workman, accompanied with the fact that the workman failed to prove filing of appeal against the punishment order, no ground is made out to modify the punishment awarded to the workman.

18. Accordingly, both these issues are proved against the workman and in favour of the management.

Issue No. 3 :

19. Onus to prove this issue is on the management.

20. Learned Law Officer raised the objection that the demand notice raised on 16.08.2021 and claim statement / industrial dispute reference filed on 23.12.2021 is highly time barred being filed after about 17 years of passing of the punishment order dated 12.07.2005. The workman has failed to explain the delay in raising industrial dispute. Consequently the present claim statement is barred by limitation.

21. Accordingly, this issue is decided in favour of the management and against the workman.

Relief :

22. In the view of foregoing finding on the issues above, the industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 31.05.2023.

(JAGDEEP KAUR VIRK) ,
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 11th July, 2023

No. 13/1/9775-HII(2)-2021/9715.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 58/2021 dated 24.05.2023 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT/GENERAL SECRETARY, CTU WORKERS UNION, CHANDIGARH
(REGD. NO.415), CHANDIGARH (Workers' Union)

AND

(1) THE DIVISIONAL MANAGER CTU, U.T. CHANDIGARH

(2) THE DIRECTOR TRANSPORT, U.T. CHANDIGARH (Management), referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9775-HII(2)-2021/4852 dated 03.05.2021.

AWARD

1. Vide Endorsement No.13/1/9775-HII(2)-2021/4852 Dated 03.05.2021 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 19.09.2018 in respect of Gulzar Singh - Assistant Welder, Chandigarh Transport Undertaking, Chandigarh, Workshop Depot No.1, Chandigarh (*hereinafter in short referred "workman"*) raised by the C.T.U. Worker's Union, Chandigarh (*hereinafter in short referred "workers' union"*) upon the Divisional Manager, C.T.U. & Director Transport, U.T. Chandigarh (*hereinafter in short referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter in short referred "ID Act"*) in following words :—

"Whether the demand raised in the demand notice dated 19.09.2018 by President / General Secretary, CTU Workers Union Chandigarh (Regd. No.415) AND The Managements (1) The Divisional Manager, CTU, UT, Chandigarh (2) The Director Transport, UT Chandigarh are genuine and justified. If so, to what effect and to what relief the Union / Workers are entitled to, if any ?"

2. Upon notice, the workers' union appeared through its representative Shri Madan Lal, who on 25.10.2021 made the statement that the demand notice dated 19.09.2018 may be treated as statement of claim. Accordingly, the demand notice dated was ordered to be treated as statement of claim. Briefly stated the facts of statement of claim are that the workman Gulzar Singh was appointed as Helper - Welder in the Chandigarh Transport Undertaking (*here-in-after 'CTU'*) and joined his services w.e.f. 12.09.1988. Shri Jaswant Singh was also appointed as Helper - Welder in CTU and joined his services on the same date i.e. 12.09.1988 but he was junior to the workman Gulzar Singh because he was listed next to Gulzar Singh in the select list dated 01.09.1988 as the list was prepared as per merits. The nature of duties, responsibilities and pay scale of both the workman were same at the time of their duties. Later on the pay scale of ITI passed were revised and Jaswant Singh, Helper - Welder was granted pay scale of ₹ 950-1800 with initial start of ₹1,000/-. Resultantly, anomaly was created and the same was set at rest by the Chandigarh Administration, U. T. Chandigarh vide order No.234 dated 17.02.2004 and was duly circulated to all the departments of Chandigarh Administration for

strict compliance. The workman Gulzar Singh submitted a request dated 23.06.2004 and various reminders for pay set up as his junior Jaswant Singh is getting more pay than the workman i.e. Gulzar Singh. But no reply from the management CTU was received in this regard. Finding no solution Gulzar Singh submitted representation dated 21.03.2018 for pay step-up from his junior Jaswant Singh - Assistant Welder. The workman Gulzar Singh received the reply vide Memo No.4977 dated 21.03.2018 from the Superintendent - I, CTU that the pay of workman Gulzar Singh cannot be stepped-up with Jaswant Singh, Assistant Welder as per Finance Department Notification No.F&PO(7)-171 dated 03.01.1992. The rejection of Gulzar Singh's application dated 13.02.2018 for pay step-up by the management of CTU vide Memo No.4977 dated 21.03.2018 is illegal, violative to statutory provisions and not inconsonance with established law on the point on various grounds inter alia some of these grounds are mentioned as below :—

- i) The issue of seniority was settled vide office order No.182/ECW/HOD/CTU/94 dated 24.03.1994 and the same is final as till date no objection has been raised by anyone. The main requirement of pay step-up is well established as Jaswant Singh, Helper - Welder is junior to the workman Gulzar Singh, Assistant Welder. A junior cannot get more pay than his senior in any case.
- ii) Jaswant Singh Helper - Welder was promoted as Assistant Welder on 24.01.2014 whereas Gulzar Singh was promoted as Assistant Welder on 08.06.2006 and was regularised w.e.f. 01.05.2012.
- iii) Jaswant Singh, Assistant Welder is junior to Gulzar Singh, Assistant Welder from the date of appointment as Helper - Welder and from the date of his promotion. Now there is no dispute with regard to the senior of the workman.
- iv) The rejection of application of the workman is arbitrary and discriminatory. Neither judicial mind has been applied nor rejected by the appropriate authority. The appropriate authority is the Divisional Manager, CTU and Director Transport, U.T. Chandigarh whereas the application of the workman has been rejected by the Superintendent - I, CTU, Chandigarh.
- v) Despite request through RTI, the copy of the Finance Department Notification No.F&PO(7)-91/171 dated 03.01.1992 has not been supplied to the workman. No para or rule has been quoted in the memo of rejection of request of workman.

Prayer is made to step-up the pay of the workman Gulzar Singh, Assistant Welder from the date his junior Jaswant Singh, Assistant Welder is getting more pay than the workman along with arrears and suitable interest.

3. On notice, management contested the claim statement by filing written reply on 02.08.2022 wherein preliminary submissions are made on the ground that the workman Gulzar Singh was appointed as Welder Helper in CTU, Chandigarh and joined his services w.e.f. 12.09.1988. Jaswant Singh was also appointed as Helper Welder in CTU, Chandigarh and joined his services on the same date i.e. 12.09.1988 but he was junior to the workman Gulzar Singh because he was listed next to the workman Gulzar Singh in the selection list dated 01.09.1988 and the list was prepared as per merit. Gulzar Singh, Assistant Welder (now Welder) raised a demand to step-up his pay from his junior Jaswant Singh - Assistant Welder (now Welder), who is getting more pay than Gulzar Singh. As per record Jaswant Singh, Assistant Welder (now Welder) has passed an ITI in trade of Welder in the year 1985 (training period w.e.f. 08/1984 to 07/1985). Accordingly, his pay scale has been revised as per Chandigarh Administration Notification dated 03.01.1992 which states that Helper - Cleaner who are matriculates and possess Industrial Training Institute (ITI) certificate will be given pay scale of ₹ 950-1800 with initial start of ₹1,000/-. Whereas educational qualification of workman Gulzar Singh was only Middle pass with no certificate of ITI at the relevant time.

4. Further on merits, similar stand is taken as taken in the preliminary submissions. It is admitted that as per seniority list Gulzar Singh is senior to Jaswant Singh. Accordingly Gulzar Singh was promoted to the post of Assistant Welder on 08.06.2006 and Jaswant Singh was promoted to the post of Assistant Welder on 20.01.2014. Jaswant Singh is ITI passed having diploma in the trade of Welder. As per notification dated

03.01.1992 Jaswant Singh has been granted the pay scale of ₹950-1800 with initial start of ₹1,000/-. An application submitted by the workman regarding step-up was rejected by the department. Para 1 to 4, 5 to 7 and 8(ii & iii) are replied being matter of record. Rest of the averments of claim statement are denied as incorrect and prayer is made that industrial dispute reference may be dismissed.

5. The workman filed rejoinder wherein the contents of written reply except admitted facts of claim statement are replied being matter of record and averments of claim statement are reiterated.

6. From the pleadings of the parties, following issues were framed vide order dated 27.10.2022:-

1. Whether the demands raised in the demand notice dated 03.05.2021 by the workers' union are genuine and justified ? If so, to what effect and to what relief the workers' union / workmen is entitled to, if any ? OPW
2. Relief.

7. In evidence the workers' union examined workman Gulzar Singh as AW1, who tendered his affidavit Exhibit 'AW1/A' along with copy of relevant Punjab Civil Services Rules No.6/138/98-IFP-II/6763 dated 21.06.2000 vide Exhibit 'W1'. On 13.04.2023 the workman closed his evidence in affirmative.

8. On the other hand, management examined MW1 Ekta - Junior Assistant, O/o Divisional Manager and Director Transport, U.T. Chandigarh, who tendered her affidavit Exhibit 'MW1/A' along with copy of notification dated 03.01.1992 regarding provisions of Rules 3(j) of the Chandigarh Administration Civil Services (Revised Pay) Rules, 1991 vide Exhibit 'MW1' (in order to avoid any ambiguity document Exhibit 'MW1' is here-in-after referred as 'MW1/1'). On 15.05.2023 Learned Law Officer for the management closed the evidence.

9. I have heard the arguments of Learned Representative for the workers' union and Learned Law Officer for management and perused the judicial file. My issue-wise finding are as below :—

Issue No. 1 :

10. Onus to prove this issue is on the workers' union.

11. Under this issue the workman Gulzar vide his affidavit Exhibit 'AW1/A' deposed that he was appointed as Helper Welder in CTU, Chandigarh and joined his services w.e.f. 12.09.1988. Jaswant Singh was also appointed as Helper - Welder in CTU, Chandigarh and joined service w.e.f. 12.09.1988 but he is junior to him because he was listed next to him in the select list as the list was prepared on the basis of merit. The fact that Jaswant Singh is junior to him is admitted by the management of CTU in its pleadings. Later on, he was promoted as Assistant Welder w.e.f. 08.06.2006 and Jaswant Singh was promoted as Assistant Welder w.e.f. 03.11.2021. The nature of duties, responsibilities and pay scales of both of them were same at the time of their appointments / joining of their duties. Later on pay scale of ITI passed was revised and Jaswant Singh was granted pay scale of ₹ 950-1800 with initial start of ₹ 1,000/-. Resultantly, anomaly was created. As per Government of Punjab's instructions bearing No. 6/138/98/IFP-11/6763 dated 21.06.2000, pay of senior is required to be stepped-up. Hence, he is entitled for the pay step up accordingly. AW1 supported his oral version with Exhibit 'W1'.

12. On the other hand, Learned Law Officer for the management referred testimony of MW1 Mrs. Ekta - Junior Assistant, CTU, who vide her affidavit Exhibit 'MW1/A' deposed that the workman Sh. Gulzar Singh was appointed as Helper-Weldar in CTU, Chandigarh and joined his services with effect from 12.9.1988. Gulzar Singh, Assistant Welder (now Welder) raised a demand to step-up his pay from his junior

Sh. Jaswant Singh, Assistant Welder (now Welder), who is getting more pay than Sh. Gulzar Singh, Assistant Welder (now Welder). As per record Sh. Jaswant Singh, Assistant Welder (now Welder) has passed an ITI in the trade of Welder in the year 1985 (Training period w.e.f. 08/1984 to 07/1985). Accordingly, his pay scale has been revised as per Chandigarh Administration Notification dated 03.01.1992 which states that Helper-Cleaner who are matriculates and possess Industrial Training Institute Certificate, will be given pay scale as ₹ 950-1800 with initial start of ₹ 1000/- whereas the education qualification of the workman (Sh. Gulzar Singh) was only middle pass with no certificate of Industrial Training Institute at the relevant time. Sh. Jaswant Singh, Assistant Welder has passed an ITI in the trade of 'Welder' in the year 1985 (Training period w.e.f. August 1984 to July 1985). Accordingly, his pay scale has been revised as per Chandigarh Administration Notification dated 03.01.1992 as ₹ 950-1800 with initial start of ₹ 1,000/-. The workman submitted an application to the management regarding pay step-up and the same was rejected by the management. As per seniority list Sh. Gulzar Singh is senior to Sh. Jaswant Singh. Accordingly, Sh. Gulzar Singh was promoted to the post of Assistant Welder on 08.06.2006. Whereas, Sh. Jaswant Singh was promoted to the post of Assistant Welder on 24.01.2014. It is further submitted that Sh. Jaswant Singh is ITI passed having diploma in the trade of Welder. As per notification dated 03.01.1992 he has been granted the pay scale of ₹ 950-1800 with initial start of ₹1,000/-. MW1 supported her oral version with notification dated 03.01.1992 / Exhibit 'MW1/1'.

13. From the oral as well documentary evidence led by the parties, it comes out that there is no dispute between the parties with regard to the fact that the workman Gulzar Singh and his co-worker Jaswant Singh were appointed as Helper - Welder in CTU, Chandigarh as per selection list dated 01.09.1998 and both of them joined their duties w.e.f. 12.09.1988. Further there is no dispute between the parties with regard to the fact that the selection list dated 01.09.1998 was prepared on merit basis and according to the selection list the name of Jaswant Singh was listed next to workman Gulzar Singh. In this manner, though both Gulzar Singh and Jaswant Singh joined on the same post, on same day but as per the seniority prepared on the basis of merits, Jaswant Singh was junior to Gulzar Singh. Further, there is no dispute with regard to the fact that the workman Gulzar Singh was promoted as Assistant Welder on 08.06.2006 and his services were regularised w.e.f. 01.05.2012 whereas Jaswant Singh was promoted as Assistant Welder on a subsequent date i.e. 24.01.2014. As far as seniority of workman Gulzar Singh and Jaswant Singh is concerned, the same is not in dispute.

14. In the present case, the dispute is confined with regard to the pay scale. The workman Gulzar Singh has alleged that his junior Jaswant Singh is getting more pay than him. The workman Gulzar Singh being senior to Jaswant Singh is entitled for pay step-up from the same date his junior Jaswant Singh is getting more pay. Learned Representative for the workers' union contended that workman Gulzar Singh has moved request dated 23.06.2004, various reminders and representations dated 21.03.2018 for his pay step-up from his junior Jaswant Singh, Assistant Welder but his claim has been rejected by the management of CTU vide Memo No.4977 dated 21.03.2018. Both Gulzar Singh and Jaswant Singh being Helper - Welder, later on promoted as Assistant Welder were performing similar nature of duties and similar work. To support his contention, Learned Representative for the workers' union referred cross-examination of MW1 Ekta wherein she has admitted as correct that Jaswant Singh, Helper - Welder now Welder is getting more pay than his senior Gulzar Singh, Helper Welder now Welder. MW1 admitted as correct that both the above employees have the equal nature of work in CTU. MW1 admitted as correct that the pay of so many employees of CTU are step-up than their juniors at the time of fixation of pay. Learned Representative for the workers' union vehemently argued that the rejection of workman Gulzar Singh's request vide order dated 21.03.2018 is not only violative to the statutory provisions but also amounts to violation of the right to 'equal pay for equal work' which is ensured under the Constitution of India.

15. On the other hand, Learned Law Officer for the management argued that the rejection of workman's request for his pay step-up has been rightly rejected vide Memo No.4977 dated 21.03.2018. As per notification dated January 3, 1992 issued by Government of India pay scale of Jaswant Singh, Assistant Welder now Welder have been revised on the ground that he possess the requisite qualification i.e. passed ITI in the

trade of Welder in the year 1985 with training period w.e.f. August 1984 to July 1985 whereas workman Gulzar Singh does not possess the aforesaid requisite qualification of diploma in ITI in the trade of Welder. Therefore, Gulzar Singh is not entitled to pay step-up or revision of his pay as granted to Jaswant Singh, Assistant Welder now Welder. To support his arguments Learned Law Officer referred cross-examination of AW1 wherein he stated that he did not have any diploma from ITI. AW1 denied for want of knowledge that whether his junior Jaswant Singh, Helper - Welder now Welder is diploma holder. AW1 admitted as correct that his services are governed under the notification / rules dated 03.01.1992 of the Finance Department, U.T. Chandigarh. AW1 admitted as correct that his junior Jaswant Singh was given one increment as he is a diploma holder on the basis of notification / Rules dated 03.01.1992 of Finance Department, U.T. Chandigarh.

16. To my opinion, pay scale of workman Gulzar Singh and Jaswant Singh both Helper - Welder now Assistant Welder is same except one increment which is released to Jaswant Singh and not released to workman Gulzar Singh. Jaswant Singh was eligible to revision of pay with one additional increment on the ground that apart from matriculation he possess the requisite qualification of diploma in the trade of Welder from ITI, as per the notification dated January 3, 1992 / Exhibit 'MW1/1' whereas workman Gulzar Singh is not entitled to the benefit of additional increment on the basis of notification dated January 3, 1992 / Exhibit 'MW1/1' because though he is matriculate but he does not fulfil the requisite criteria of qualification i.e. he does not possess diploma in the trade of Welder from ITI. The possession of diploma in the trade of welder from ITI is a pre-condition for grant of one additional increment on the basis of notification dated January 3, 1992 / Exhibit 'MW1/1'. Consequently, the Gulzar Singh, workman is not entitled to pay step-up as he is not eligible for the same on the basis of above said notification Exhibit 'MW1/1'. Consequently, the order of management of CTU bearing No.4977 dated 21.03.2018 is legal & justified. Thus, the demand raised by the workers' union in the demand notice dated 19.09.2018 is not genuine & justified.

17. Accordingly, this issue is decided against the workers' union and in favour of the management.

Relief :

18. In the view of foregoing finding on the issue above, the industrial dispute reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 24.05.2023.

(JAGDEEP KAUR VIRK) ,
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
HOME DEPARTMENT
(Police Branch)

Notification

The 25th July, 2023

No: 54327.F/274-HIII(1)-2023/10967.—Vide Notification bearing No. 565763-HIII(2)-2022/9455-A-9462 dated 15.06.2022, further substituted on 24.08.2022, Anti-Narcotics Task Force, Chandigarh Administration was restructured with a view to broaden its objectives, functioning, approach in respect of enforcement of NDPS Act. etc. The structure of that Anti-Narcotics Task Force is as under :—

Sr. No.	Name of Authority	Designation in the ANTF
1.	Inspector General of Police	Chairman & Nodal Officer
2.	Senior Superintendent of Police	Member
3.	Superintendent of Police(Crime)	Member
4.	Deputy Superintendent of Police(Crime)	Member
5.	Inspector(s) Incharge of Narcotics Cell	Member
6.	Sub Inspector/Assistant Sub Inspector & Head Constable and Constable Anti Narcotics Cell	To be posed by ANTF as per actual requirements

2. Now, the Administrator, Union Territory, Chandigarh is pleased to confer the Powers of Police Station to the Anti-Narcotics Task Force, Chandigarh Administration, to deal with the Narcotics Crime related issues/work in Chandigarh.

Chandigarh :
The 18.07.2023.

NITIN KUMAR YADAV, IAS,
Home Secretary,
Union Territory, Chandigarh.

CHANGE OF NAME

I, Kamaljit Kaur, W/o Tarsem Kumar, R/o # 44, Village Dadu Majra, Chandigarh, declare that I have changed my name from Kamaljit Kaur to Rama Sharma.

[866-1]

I, Sangeeta Rani Juneja, W/o Late Sh. Surinder Pal, R/o House No. 400, Sector 40-A, Chandigarh, have changed my name from Sangeeta Rani Juneja to Sangeeta.

[867-1]

I, Ankita Kumbalwar, D/o Keshav Kumbalwar, W/o Krink Krintya Kumar, # 1540, Mauli Complex, Chandigarh, have changed my name to Ankita Kashyap.

[868-1]

I, Ramasamy, S/o Tottan, R/o # 968, Vikas Nagar, Mauli Jagran, Chandigarh, have changed my name to Sinatambi.

[869-1]

I, Divya Gupta, W/o Sh. Gaurav Chopra, R/o # 607, Sector 18-B, Chandigarh, change my name from Divya Gupta to Gunisha Chopra after marriage.

[870-1]

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